REMARKS

Claims 23-26, 28-37, 58-71, 125, 127 and 128 are currently pending. Claims 1-22, 27, 38-57, 72-124 and 126 are canceled without prejudice or disclaimer. Applicants elect the claims of Group 1 (claims 23-26, 28-32 and 127) with traverse. Applicants also elect SEQ ID NO: 4 without traverse.

Although it is unclear from the instant Office Action, Applicants believe that the Examiner's reference to claims 23-26, 28-32 and 127 as being placed in Groups 1-3 (see page 2 of the instant Office Action) means that Group 1 includes claims 23-26, 28-32 and 127 with respect to SEQ ID NO: 4, Group 2 includes claims 23-26, 28-32 and 127 with respect to SEQ ID NO: 5 and Group 3 includes claims 23-26, 28-32 and 127 with respect to SEQ ID NO: 6. Applicants have elected SEQ ID NO: 4 and do not traverse this portion of the restriction requirement. Applicants do, however, traverse the restriction of Group 1 (claims 23-26, 28-32 and 127) from the other claims pending in the instant application.

The Examiner asserts that claim Groups 1-16 lack unity of invention. In particular, the Examiner asserts that claim Groups 1-16 do not relate to a single inventive concept under PCT Rule 13.1 because under PCT Rule 13.2 they allegedly lack the same or corresponding contribution over the prior art. The Examiner then asserts that the Merck manual teaches that corticosteroids can be used to ameliorate the symptoms of inflammation, and further alleges, that this disclosure meets the limitations of the Group 1 claims. The Examiner goes on to conclude that claim Groups 2-16 cannot share a special technical feature with the claims of Group 1 because the claims of Group 1 allegedly lack a special technical feature. Finally, the Examiner makes additional arguments as to why restriction is appropriate by alleging the standard for restriction applied under section 800 of the MPEP.

The Examiner has not sufficiently established why restriction is required. Applicants submit that the appropriate standard for determining whether restriction is warranted is the unity of invention standard and not the standard under section 800 of the MPEP. All of the currently pending claims meet the unity of invention requirement. Contrary to the Examiner's assertion regarding the claims of Group 1, Applicants submit that these claims include the technical feature of modulating the level or activity of NF-HEV. The Merck manual does not disclose or suggest ameliorating inflammation by modulating NF-HEV level or activity. Each of the other currently

pending claim groups also relate to NF-HEV modulation. As such, Applicants respectfully submit that unity of invention between all of the currently pending claims is established.

Applicants further note that at page 2 of the instant Office Action the Examiner alleges that the claims of Groups 1-3 are "drawn to a method of ameliorating symptoms of a condition associated with inflammation, said method comprising modulating in a subject the level or activity of the NF-HEV polypeptide or a biologically active fragment thereof, by administering an antisense nucleic acid and altering the expression of a nucleic acid encoding said NF-HEV polypeptide or a biologically active fragment thereof." Applicants do not agree with this characterization. In particular, Applicants note that only claim 31 is limited to modulating NF-HEV polypeptide or a biologically active fragment thereof by providing an antisense nucleic acid. None of the other claims include this limitation.

In view of the foregoing remarks, Applicants request that the Examiner withdraw the requirement for restriction and examine all of the claims currently pending in the instant application.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, the Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. The Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

CONCLUSION

Applicants believe that all outstanding issues in this case have been resolved and that the present claims are in condition for allowance. Nevertheless, if any undeveloped issues remain or

if any issues require clarification, the Examiner is invited to contact the undersigned at the telephone number provided below in order to expedite the resolution of such issues.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: March 6, 2008

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